

REFERENCE TITLE: **contractors; disciplinary grounds**

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2763

Introduced by
Representative Prezelski

AN ACT

AMENDING SECTION 32-1154, ARIZONA REVISED STATUTES; RELATING TO CONTRACTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-1154, Arizona Revised Statutes, is amended to
3 read:
4 32-1154. Grounds for suspension or revocation of license;
5 continuing jurisdiction; civil penalty; recovery
6 fund award
7 A. The holder of a license or any person listed on a license pursuant
8 to this chapter shall not commit any of the following acts or omissions:
9 1. Abandonment of a contract or refusal to perform after submitting a
10 bid on work without legal excuse for the abandonment or refusal.
11 2. Departure from or disregard of plans or specifications or any
12 building codes of the state or any political subdivision of the state in any
13 material respect which is prejudicial to another without consent of the owner
14 or the owner's duly authorized representative and without the consent of the
15 person entitled to have the particular construction project or operation
16 completed in accordance with such plans and specifications and code.
17 3. Violation of any rule adopted by the registrar.
18 4. Failure to comply with the statutes or rules governing social
19 security, workers' compensation or unemployment insurance.
20 5. Failure to pay income taxes, withholding taxes or any tax imposed
21 by title 42, chapter 5, articles 1 and 4 and incurred in the operation of the
22 licensed business.
23 6. Misrepresentation of a material fact by the applicant in obtaining
24 a license.
25 7. The doing of a wrongful or fraudulent act by the licensee as a
26 contractor resulting in another person being substantially injured.
27 8. Conviction of a felony.
28 9. Failure in a material respect by the licensee to complete a
29 construction project or operation for the price stated in the contract, or in
30 any modification of the contract.
31 10. Aiding or abetting a licensed or unlicensed person to evade this
32 chapter, knowingly OR RECKLESSLY combining or conspiring with a licensed or
33 unlicensed person, allowing one's license to be used by a licensed or
34 unlicensed person or acting as agent, partner, associate or otherwise of a
35 licensed or unlicensed person with intent to evade this chapter.
36 11. Failure by a licensee or agent or official of a licensee to pay
37 monies in excess of seven hundred fifty dollars when due for materials or
38 services rendered in connection with the licensee's operations as a
39 contractor when the licensee has the capacity to pay or, if the licensee
40 lacks the capacity to pay, when the licensee has received sufficient monies
41 as payment for the particular construction work project or operation for
42 which the services or materials were rendered or purchased.

- 1 12. Failure of a contractor to comply with any safety or labor laws or
2 codes of the federal government, state or political subdivisions of the
3 state.
- 4 13. Failure in any material respect to comply with this chapter.
- 5 14. Knowingly entering into a contract with a contractor for work to be
6 performed for which a license is required with a person not duly licensed in
7 the required classification.
- 8 15. Acting in the capacity of a contractor under any license issued
9 under this chapter in a name other than as set forth upon the license.
- 10 16. False, misleading or deceptive advertising whereby any member of
11 the public may be misled and injured.
- 12 17. Knowingly contracting beyond the scope of the license or licenses
13 of the licensee.
- 14 18. Contracting or offering to contract or submitting a bid while the
15 license is under suspension or while the license is on inactive status.
- 16 19. Failure to notify the registrar in writing within a period of
17 fifteen days of any disassociation of the person who qualified for the
18 license. Such licensee shall have sixty days from the date of such
19 disassociation to qualify through another person.
- 20 20. Subsequent discovery of facts which if known at the time of
21 issuance of a license or the renewal of a license would have been grounds to
22 deny the issuance or renewal of a license.
- 23 21. Having a person named on the license who is named on any other
24 license in this state or in another state which is under suspension or
25 revocation unless the prior revocation was based solely on a violation of
26 this paragraph.
- 27 22. Continuing a new single family residential construction project
28 with actual knowledge that a pretreatment wood-destroying pests or organisms
29 application was either:
- 30 (a) Not performed at the required location.
- 31 (b) Performed in a manner inconsistent with label requirements, state
32 law or rules.
- 33 23. Failure to take appropriate corrective action to comply with this
34 chapter or with rules adopted pursuant to this chapter without valid
35 justification within a reasonable period of time after receiving a written
36 directive from the registrar. The written directive shall set forth the time
37 within which the contractor is to complete the remedial action. The time
38 permitted for compliance shall not be less than fifteen days from the date of
39 issuance of the directive. A license shall not be revoked or suspended nor
40 shall any other penalty be imposed for a violation of this paragraph until
41 after a hearing has been held.
- 42 24. Prohibit, threaten to prohibit, retaliate, threaten to retaliate or
43 otherwise intimidate any contractor or materialman from serving a preliminary
44 notice pursuant to section 33-992.01.

1 B. The registrar may on the registrar's own motion, and shall on the
2 written complaint of any person, investigate the acts of any contractor
3 within this state and may temporarily suspend, with or without imposition of
4 specific conditions in addition to increased surety bond or cash deposit
5 requirements, or permanently revoke any or all licenses issued under this
6 chapter if the holder of the license issued pursuant to this chapter is
7 guilty of or commits any of the acts or omissions set forth in subsection A
8 of this section.

9 C. The expiration, cancellation, suspension or revocation of a license
10 by operation of law or by decision and order of the registrar or a court of
11 law or the voluntary surrender of a license by a licensee shall not deprive
12 the registrar of jurisdiction to proceed with any investigation of or action
13 or disciplinary proceeding against such licensee, or to render a decision
14 suspending or revoking such a license, or denying the renewal or right of
15 renewal of such license.

16 D. The registrar may impose a civil penalty of not to exceed five
17 hundred dollars on a contractor for each violation of subsection A, paragraph
18 23 of this section. Civil penalties collected pursuant to this subsection
19 shall be deposited in the residential contractors' recovery fund. The
20 failure by the licensee to pay any civil penalty imposed under this
21 subsection results in the automatic revocation of the license thirty days
22 after the effective date of the order providing for the civil penalty. No
23 future license may be issued to an entity consisting of a person associated
24 with the contractor, as defined in section 32-1101, subsection A, paragraph
25 5, unless payment of any outstanding civil penalty is tendered.

26 E. The registrar shall impose a civil penalty of not to exceed one
27 thousand dollars on a contractor for each violation of subsection A,
28 paragraph 18 of this section. Civil penalties collected pursuant to this
29 subsection shall be deposited in the residential contractors' recovery
30 fund. The failure by the licensee to pay any civil penalty imposed under
31 this subsection results in the automatic permanent revocation of the license
32 thirty days after the effective date of the order providing for the civil
33 penalty. No future license may be issued to an entity consisting of a person
34 associated with the contractor, as defined in section 32-1101, subsection A,
35 paragraph 5, unless payment of any outstanding civil penalty is tendered.

36 F. Notwithstanding any other provisions in this chapter, if a
37 contractor's license has been revoked or has been suspended as a result of an
38 order to remedy a violation of this chapter, and the contractor refuses or is
39 unable to comply with the order of the registrar to remedy the violation, the
40 registrar may order payment from the residential contractors' recovery fund
41 to remedy the violation. The registrar shall serve the contractor with a
42 notice setting forth the amount claimed or to be awarded. If the contractor
43 contests the amount or propriety of the payment, the contractor shall respond
44 within ten days of the date of service by requesting a hearing to determine
45 the amount or propriety of the payment. Failure by the contractor to respond

1 in writing within ten days of the date of service shall be deemed a waiver by
2 the contractor of the right to contest the amount claimed or to be awarded.
3 Service may be made by personal service to the contractor or by mailing a
4 copy of the notice by registered mail with postage prepaid to the
5 contractor's latest address of record on file in the registrar's office. If
6 service is made by registered mail, it is effective five days after the
7 notice is mailed. Except as provided in section 41-1092.08, subsection H,
8 the contractor or injured person may seek judicial review of the registrar's
9 final award pursuant to title 12, chapter 7, article 6.